

APPEAL NO. 040364
FILED APRIL 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 21, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not include an injury to the cervical spine. The claimant appealed based on sufficiency of the evidence grounds. Additionally, the claimant asserts that the coworkers written statement was biased. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Extent of injury is factual question for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The claimant testified that he injured his neck, lower back, left knee, and left ankle when his foot got caught in a hole and he twisted side to side, then he fell to the floor. It is undisputed that the carrier has accepted the back and left lower extremity as a compensable injury. The hearing officer commented in the Statement of the Evidence paragraph that she "concluded that Claimant failed to establish by a preponderance of the evidence, particularly medical evidence, that he injured his cervical at the same time he injured his lumbar and left lower extremity on _____." Nothing in our review of the record reveals that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant complains that Carrier's Exhibit No. 10, a statement from a coworker, favors the carrier. The claimant essentially makes the same argument on appeal as he did at the CCH, and the hearing officer considered his argument in making her determination. It was the province of the hearing officer to determine what weight to give the evidence. We perceive no error.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN ALTERNATIVE INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge